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PARFOMAK, ANDREW N.  
NORRIS MCLAUGHLIN & MARCUS PA  
875 THIRD AVE, 8TH FLOOR  
NEW YORK NY 10022

In re Application of: :  
MCGEE, Thomas, et al. :  
U.S. Application No.: 10/549564 :  
PCT No.: PCT/CH2004/000102 :  
International Filing Date: 26 February 2004 :  
Priority Date: 21 March 2003 :  
Attorney Docket No.: 102790-147 (30085US) :  
For: VAPOR DIFFUSING DEVICE :

DECISION  
(37 CFR 1.181)

This decision is issued in response to the "Request For Corrected Filing Receipt" filed 31 August 2010, treated herein as a petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date for the present application. No petition fee is required.

### **BACKGROUND**

On 26 February 2004, applicants filed international application PCT/CH2004/000102. The international application claimed a priority date of 21 March 2003, and it designated the United States. On 30 September 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 21 September 2005.

On 20 September 2005, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an unexecuted declaration.

On 22 November 2005, applicants filed an executed declaration and the authorization to charge Deposit Account No. 14-1263 the \$130 surcharge for filing the declaration later than thirty months after the priority date.

On 05 June 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) requiring submission of an oath or declaration in compliance with 37 CFR 1.497.

On 26 June 2006, applicants filed a response to the Notification Of Missing Requirements stating that an executed declaration had been filed on 22 November 2005. A copy of the previously-filed declaration was included with this submission.

On 05 September 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and the "Date Of Completion Of All U.S.C. 371 Requirements" as 26 June 2006. Also on 05 September 2006, a filing receipt was issued that identified the 35 U.S.C. 371(c) date as 26 June 2006.

On 29 September 2006, applicants filed a "Request For Corrected Filing Receipt" requesting correction of the 35 U.S.C. 371(c) date listed on the filing receipt from 26 June 2006 to 22 November 2005. The submission also requested correction of the residence of the first named inventor.

On 05 August 2010, a "Notification Of Allowance And Fee(s) Due" (Form PTOL-85) was issued.

On 20 August 2010, applicants filed a "Second Request For Corrected Filing Receipt" again requesting correction of the 35 U.S.C. 371(c) date and the residence of the first named inventor.

On 20 August 2010, a corrected filing receipt was issued in which the residence of the first named inventor was corrected, as requested. However, the 35 U.S.C. 371(c) date on the corrected filing receipt remained 26 June 2006.

On 21 August 2010, applicants filed the "Request For Corrected Filing Receipt" considered herein as a petition under 37 CFR 1.181. The petition asserts that the declaration completing the requirements of 35 U.S.C. 371(c) was filed on 22 November 2005 and it requests that the 35 U.S.C. 371(c) date for the present application be corrected accordingly.

### **DISCUSSION**

A review of the application file confirms that the declaration completing the requirements of 35 U.S.C. 371(c)(4) was filed on 22 November 2005. The correct "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements" and "Date Of Completion Of All U.S.C. 371 Requirements" for the present application is therefore 22 November 2005, as asserted by applicants in the present petition.

Based on the above, the Notification Of Acceptance (Form PCT/DO/EO/903) mailed 05 September 2006, which incorrectly identified the 35 U.S.C. 371(c) dates as (and the receipt date of the declaration) as 26 June 2006, is appropriately vacated. In addition, the filing receipts mailed herein, both of which incorrectly identified the 35 U.S.C. 371(c) date as 26 June 2006, are also appropriately vacated. A corrected Notification Of Acceptance and filing receipt will be issued properly identifying the date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) as 22 November 2005.

### **CONCLUSION**

The petition under 37 CFR 1.181 to correct the 35 U.S.C. 371(c) date is **GRANTED**.

The Notification Of Acceptance (Form PCT/DO/EO/903) mailed 05 September 2006, and the filing receipts subsequently mailed herein, are hereby **VACATED**.

This application is being referred to the National Stage Processing Branch of the Office of PCT Operations for processing in accord with this decision, including the issuance of (1) a corrected Notification Of Acceptance (Form PCT/DO/EO/903) identifying the "Date Of Receipt Of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) Requirements," the "Date Of Completion Of All U.S.C. 371 Requirements," and the filing date of the declaration as **22 November 2005**; and (2) a corrected filing receipt identifying the 35 U.S.C. 371(c) date as **22 November 2005**.



Richard M. Ross  
Attorney Advisor  
Office of PCT Legal Administration  
Telephone: (571) 272-3296  
Facsimile: (571) 273-0459